

Our ref: 167/MM/APS/gj

Ms B Warr
Chief Executive
UKHCA
Group House
2nd Floor
52 Sutton Court Road
Sutton
Surrey SM1 4SL



4th January 2012

Dear Ms Warr

Re. Potential legal challenges to statutory commissioning of homecare

Thank you for your letter dated 17th November 2011, which was received in my office on 30th November 2011. May I apologise for the obvious delay in responding to you.

The care at home contract with the Independent Sector was awarded in 2009 following competitive tender for a period of three years. This was subsequently extended by one year and now terminates in March 2013. The contract was let on a pre-published fixed fee per hour.

In response to your questions please find the following: -

1. Dudley MBC is currently undertaking budget consultation with citizens and indeed Independent Sector care providers such as homecare. This approach will serve to assist the Council in determining budget setting for the year 2012/2013 and in some instances beyond. Indeed recent work with the West Midlands Care Association (Dudley Forum) has enabled us to review a basket of indicators in relation to costs incurred in the Sector.
2. The Dudley MBC contract for Independent Sector homecare specifies:

"The hourly rate shall be reviewed by the Council annually, by reference to the prevailing headline rate of inflation. The Council will notify the Service Provider, in writing, of any applicable price revisions. Price revisions will take effect from 1st April each year.

The price to be paid for the Service shall include the cost of all processes required to ensure that the Service complies with the terms of this Contract. The Service Provider must ensure that the hourly price fully covers the following: -

- Staff wages and salaries and all associated employment costs which are to be set at a realistic level in order to attract and retain suitable personnel of a calibre to meet the service requirements

- Staff recruitment processes which comply with the National Minimum Care Standards
 - Staff training, which at a minimum will fully meet the requirements of the National Minimum Care Standards
 - Staff supervision and development which fully meets the National Care Standards
 - Quality control of the service
 - The efficient management and administration of the Contract which meets the requirements of the National Minimum Care Standards and the requirements set out in the Service Specification, including an on call system outside normal office hours
 - All fees associated with the registration of the service and managers with the National Care Standards Commission
 - Professional management expertise and time in order to work collaboratively with the Council and other Service Providers within the Borough
 - Management capacity to keep updated with national and local developments in all matters relating to the delivery of care at home, and to update and amend policies and procedures accordingly"
3. Dudley MBC routinely reviews and/or reassesses homecare packages as part of best practice. This may result in a reduction of care as a consequence of a reablement package or an increase in care due to an increased level of dependency
 4. Dudley MBC has not embarked on electronic call monitoring unlike other Councils with Adult Social Services Responsibilities (CASSR) or Independent Sector homecare providers themselves
 5. Those people eligible for a Direct Payment will have received a self-directed assessment in terms of need following which a financial allocation is made to them in order to meet those needs. People with a Direct Payment within the Borough are purchasing care from regulated providers and Micro-Service providers accordingly
 6. The quality of service in homecare provision is regularly monitored by ourselves and is subject to Inspection by the Care Quality Commission in respect of quality and safety. Any concerns raised to-date do not relate to the contract prices but may relate to general contract terms of quality assurance.

Dudley MBC holds regular Forum meetings with homecare providers and has recently been invited to participate in a review of personalisation that will commence in January 2012.

In collaboration with the West Midlands Care Association (Dudley Forum) work is currently in train in respect of "Sustainability of Personalisation, Quality & Safety in Care Homes". The Terms of Reference for this were: -

The "think tank" will review the current contractual and policy framework:

- The level of quality required as a consequence of Dudley MBC contractual requirements
- The impact of the Care Quality Commission's essential standards of quality & safety
- Occupancy levels within the Independent Sector Care Homes
- Current and future local authority and Independent Sector Care Home capacity
- The "essentials" for sustainability – quality, price

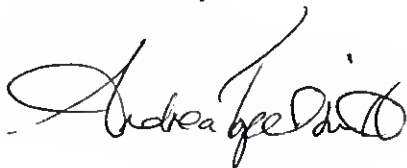
Further, the "think tank" will:

- Consider the implications for policy and practice of providers, commissioners, regulators and the Council
- Establish facts about the current state of Independent Sector Care Homes within the Dudley Borough – such as: -
 - dependency levels
 - recruitment factors within the local employment market
 - general workforce issues including training and retention
 - identification of best practice locally, regionally and nationally
 - cost pressures within and outside of the Sector
- The "think tank" will be informed by local, regional and national research and evidence including such aspects as PSSRU Adult Social Care Outcome Tool (ASCOT) and Lang & Buisson publications

A similar approach has been offered to Independent Sector homecare providers and their response is awaited.

We are proud, but not complacent, of the relationship with all Independent Sector providers that support our statutory duties of care. A reflection of this may be seen in the successful Dudley MBC nomination of the West Midlands Care Associations Chief Executive Officer in the Great West Midlands Care Awards in winning The Outstanding Contribution to Social Care Award 2011.

Yours sincerely



Andrea Pope-Smith
Director of Adult, Community & Housing Services